

The Ohio Legislative Service Commission

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When on June 13, 1953, Governor Lausche approved Senate Bill No. 76 creating the Ohio Legislative Service Commission, Ohio became the first state to consolidate several existing legislative service agencies having limited functions into one agency having the responsibility to provide a wide range of legislative services. As it will have a significant impact upon the Ohio legislative product, the act is of importance to the bar and the citizens of Ohio. The development is also of interest to all who are concerned with the improvement of the American state legislative process.¹ Thus, the act deserves analysis.

To appreciate fully the significance of Senate Bill No. 76, it is necessary to understand its context. This requires a brief review of the legislative service movement in America and an examination of the legislative service agencies existing in Ohio at the time this act was passed and the services they performed.

LEGISLATIVE SERVICE MOVEMENT

The development of formalized aid to the legislative process by a state agency established for that purpose had its beginnings in the work of a specialized reference division of the New York State Library in 1890. However, the founding of the Wisconsin Legislative Reference Library in 1901 under the energetic leadership of Dr. Charles McCarthy is generally considered as the beginning of the legislative service movement.² In the sixty odd years since, the legislative service agency has multiplied greatly in number and in kind of service rendered and its staffs have increased substantially in professional competence. The most recent available tabulation shows that legislative reference services are being provided in 45 states (either by an independent bureau or a special division of the state library in most states), that bill drafting services are provided the legislators in 42 states (either by an independent legislative agency or a special division of the attorney

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¹ The improvement of the American state legislative process is one of the paramount domestic political problems of our times. The state must be made adequate for the task of responding to the needs of its people if the historic allocation of functions between the state and federal government are to be preserved. Lindsey, *The Texas Legislative Council*, 2 BAYLOR L. REV. 303, 317 (1950).

² For a brief history of the development of legislative service agencies see WALKER, *THE LEGISLATIVE PROCESS* 318-331 (1948); 9 *THE BOOK OF THE STATES 1952-1953* 114-115, 124 (Council of State Governments 1952).

general's department in a large number of states) that 28 states have legislative councils or council-type agencies, that 16 states have established code, statutory or law revision agencies, that eight states have legislative agencies concerned primarily with budgetary review and analysis (three other states have special divisions of other legislative agencies devoted to the subject) and that three states have legislative post-audit agencies.³

The wide use and acceptance of the legislative service agency reflected in statistics set out above seems ample evidence of the need for these agencies. It is not necessary to present here a brief for these agencies.⁴ A moment's reflection will make the major reasons apparent to the reader. The fact that the problems presenting themselves to the state legislature have become more complex and frequently beyond the experience or knowledge of the legislator and that our knowledge about ourselves and our institutions has vastly increased means that the legislator needs help in collecting, organizing, and evaluating the information upon which he will base his political judgment. The part-time legislator cannot devote much time to research, bill drafting, and the other technical aspects of the legislative process if he is to discharge adequately his political function. If he is not going to be almost wholly dependent upon the representations of the advocates made through their lobbyists or in person for information and analysis, he needs help from an independent source under his direction. The legislative service agency, then, is a method for harnessing the expert and freeing the legislator to perform his unique function—the making of political judgments and developing accommodations among competing social and economic forces.

DEVELOPMENT OF LEGISLATIVE SERVICES IN OHIO

Ohio is one of the pioneers in providing its legislators with assistance through the establishment of formal state organization for that purpose. The Ohio Legislative Reference Bureau had its beginnings in 1910. In 1945 the General Assembly created the Commission on Code Revision and the Bureau of Code Revision. This was followed in 1947 by the establishment of the Ohio Legislative Research Commission and in 1949 by the creation of the Ohio Program Commission. The act creating the Ohio Legislative Service Commission, then, is the latest step in Ohio's effort over the years to improve the form and substance of its laws by providing

³ 9 THE BOOK OF THE STATES 1952-1953 116-123 (Council of State Governments 1952).

⁴ This has been ably done elsewhere. LUCE, *LEGISLATIVE PROCEDURE* 563 (1922); WALKER, *THE LEGISLATIVE PROCESS* 318 (1948); Schwartz, *The Ohio Legislative Reference Bureau*, 11 OHIO ST. L.J. 436-437 (1950); Glosser, *Ohio Legislators Get Help*, 40 NAT. MUNIC. REV. 468 (1951).

its legislature with assistance.

OHIO LEGISLATIVE REFERENCE BUREAU

Efforts begun in 1908 resulted in the passage in 1910 of an act creating the legislative reference and information department of the Ohio State Library.⁵ Legislation in 1913 and in 1927 made some minor organizational changes. In 1933 the department was given independent status as the Legislative Reference Bureau. The Bureau is governed by the Legislative Reference Board composed of the Governor, the Clerk of the Senate and the Clerk of the House of Representatives; the Board appoints the Director and the Secretary of the Bureau. The services performed by the Bureau are those generally performed by the legislative reference agencies across the country. The three principal functions of the Ohio bureau are: (1) the drafting of bills and resolutions, (2) the maintenance of a complete file of the bills and resolutions introduced in the Ohio General Assembly (whether passed or not), and of the Acts of the General Assembly, and (3) maintenance of a reference library and the provision of reference librarian service.⁶ The Bureau has apparently acquired the confidence and respect of the Assembly, for its bill drafting skill especially.

COMMISSION AND BUREAU OF CODE REVISION

In 1945 the General Assembly created the Bureau of Code Revision and the Commission on Code Revision, which governs the Bureau, to undertake a continuous program of codification and statutory revision and of the adaptation of new legislation to the form and arrangement of the General Code.⁷ In 1947 the duties of the Bureau of Code Revision were expanded to include the duty to organize, publish, and sell the rules of the state agencies required to be filed with the Secretary of State under the Ohio Administrative Procedure Act.⁸ The Commission on Code Revision was composed of nine members—three Senators appointed by the President Pro-tempore of the Senate, three Representatives appointed by the Speaker of the House and three persons appointed by the Governor. The members appointed by the Governor had six-year overlapping terms; thus there was a gubernatorial appointment to be made every two years. The Commission gave direction

⁵ As there is an excellent account of the history and work of the Bureau in an earlier volume of this journal, only a summary is presented here. Schwartz, *The Ohio Legislative Reference Bureau*, 11 OHIO ST. L.J. 436 (1950).

⁶ OHIO GEN. CODE § 798-3 sets out the duties of the Bureau.

⁷ As there is an excellent account of the history and the work of the Commission and Bureau of Code Revision in an earlier volume of this journal, only a summary is presented here. Campbell, *Continuous Code Revision in Ohio*, 11 OHIO ST. L.J. 533 (1950). The act creating the Commission and Bureau is Senate Bill No. 208, 96th General Assembly (121 Ohio Laws 129).

⁸ Senate Bill No. 194, 97th General Assembly (122 Ohio Laws 369).

to its staff or Bureau of Code Revision, which was headed by a director.

The work of the Commission and Bureau of Code Revision is quite well known to the bar of Ohio; it is the work of this legislative service agency which has the most apparent impact upon the everyday practice of the lawyers of Ohio. This agency has made a substantial contribution towards the improvement of the organization and form of the Ohio statutes and has had an important part in the elimination of considerable unconstitutional but unrepealed, obsolete, and unnecessary provisions of the statutes.

OHIO LEGISLATIVE RESEARCH COMMISSION

The Legislative Research Commission was created in 1947 and assigned as its primary mission the preparation of data "concerning the financial status of the state," that is, fiscal review.⁹ In addition, the Commission was authorized to "render such other aid and assistance to the legislative branch as may be required."¹⁰ The Commission was composed of six members—three Senators appointed by the President Pro-tempore of the Senate and three Representatives appointed by the Speaker of the House. The Commission was given a bi-partisan character by the requirement that no more than two of the three members appointed by each appointing officer could be a member of the same political party. The Commission was assisted by a staff headed by the Director. The staff reached its peak of twelve in the 1953 legislative session.

The Legislative Research Commission aided the Ohio legislative process primarily by directing its staff to provide staff reports and memoranda containing factual data and fiscal information on specific matters of legislative concern. Unlike similar legislative agencies in some states, such as in Texas, the Legislative Research Commission was not given the task of preparing the state's budget or of preparing the appropriation bills. These tasks remained those of the Director of Finance and of the Superintendent of the Budget, respectively.¹¹ In the field of budgetary and revenue review and analysis, it was apparently expected that the Commission would provide the assembly with additional data and analysis to assist the legislator in understanding and evaluating the executive proposals.

The authority granted the Commission to render "other aid and assistance" was employed to make the Commission's staff the principal source of research into legislative problems of both a

⁹ The act creating the Commission is House Bill No. 456, 97th General Assembly (122 Ohio Laws 488).

¹⁰ 122 Ohio Laws 488, § 76-14.

¹¹ OHIO GEN. CODE § 154-31 (2).

financial and non-financial nature. The information made available to the members of the General Assembly ranged from one or two page mimeographed statistical summaries, to information bulletins containing tables of data relevant to a given problem, to research publications containing the results of investigation and comparative data from other states.¹²

OHIO PROGRAM COMMISSION

The Ohio Program Commission, which had functioned since 1943, was placed on a permanent basis in 1949.¹³ The language of the act creating the Commission indicates that the development of a public works program was the primary mission assigned to the Commission.¹⁴ However, the Commission did not limit its inquiry to this area. The Program Commission consisted of twenty-one members — the President of the Senate, the President Pro-tempore of the Senate and five senators appointed by him, the Speaker of the House and five representatives appointed by him, five designated heads of state departments and three persons appointed by the Governor, who might be private citizens. The most recent gubernatorial appointees were a college president, an editor and a professor of government. The Commission was assisted by a permanent staff consisting of an Executive Secretary, a public informational and editorial assistant, and two secretaries.

The Program Commission served the function in Ohio which the legislative council serves in many states. In composition, it followed the original legislative council concept by including members of the executive branch on the Commission; it was felt by the National Municipal League that the council would be a means of

¹² For example, the Commission issued on March 24, 1953, a two-page summary of the revenue results of the gasoline and diesel fuel tax and yields that could be anticipated from an increase in gasoline tax rates. OHIO'S RANK IN EDUCATION (Ohio Legislative Research Comm'n, Informational Bull. No. 1, 1953) presents comparative economic data concerning Ohio's support of its public schools and its comparative ability to support them. CONFIDENTIALITY OF PUBLIC ASSISTANCE RECORDS (Ohio Legislative Research Comm'n, Research Publication No. 5, 1953); CENTRALIZATION OF OCCUPATIONAL LICENSING AGENCIES (Ohio Legislative Research Comm'n, Research Publication No. 2, 1953); and TAXATION OF PARI-MUTUEL WAGERING (Ohio Legislative Research Comm'n, Research Publication No. 1, 1953) indicate the range of the research reports.

¹³ For an excellent account of the history and the work of the Commission see Glosser, *Ohio Legislators Get Help*, 40 NAT. MUNIC. REV. 468 (1951). The act creating the Commission is Senate Bill No. 230, 98th General Assembly (123 Ohio Laws 859). This act was amended in 1951, *inter alia*, to make it clear that the senatorial appointments were to be made by the President Pro-tempore, to authorize the Commission to appoint study committees upon which non-members could serve and to grant the Commission the subpoena power. Senate Bill No. 327, 99th General Assembly (124 Ohio Laws 457).

¹⁴ 123 Ohio Laws 859, § 377.

bridging the gap between the executive and legislative branches.¹⁵ The legislative council or council-type agency in most states, however, is more purely a permanent interim legislative committee and contains only legislative membership.

The Commission used the study committee composed of commission and non-commission members extensively. During the 1951-1952 biennium there were 312 appointments to study committees. The study committees ordinarily included a few members of the Program Commission, a substantial number of legislators, representatives of the administrative department responsible for the function being studied, several technical experts from the universities and colleges, and a large number of citizens who were particularly interested or experienced in the field under study. In view of the size of the Commission's staff, it seems clear that the Commission could not provide the study committees with research staffs and that the Commission itself could not undertake research with its own staff on any scale. Apparently, the study committees were able to tap the large fund of knowledge held by its members on the subject and to get data from the state department concerned through the members from that department on the study committee.

An examination of the Commission's Biennial Report 1951-1952 indicates that the material furnished the legislators by the Commission was largely opinion, recommendation for action, and argument in support of that recommendation.¹⁶ It seems, then, that it was the function of the Commission to pool the judgment, knowledge and experience of able public and private citizens of the state on questions of legislative concern.¹⁷ The study committee seems to be an important device in attaining this objective. It should be noted that the study committee made its report to the Commission and the Commission then passed upon the recommendations, approving most, modifying some, and disapproving some. All of the study committee's report, however, was submitted to the Governor and General Assembly. The Commission, then, was the steering committee and also the final policy formulator.

¹⁵ REVISED PRELIMINARY REPORT OF SPECIAL COMMITTEE ON ORGANIZATION OF LEGISLATIVE SERVICES TO LEGISLATIVE SERVICE CONFERENCE I-9 (Council of State Governments, Sept. 1953). The legislative council idea was originally proposed in the Model State Constitution drafted by the Committee on State Governments of the National Municipal League in 1921.

¹⁶ See for example the Public Assistance Committee's report on admission of senile aged to mental institutions. BIENNIAL REPORT 1951-1952 98-99 (Ohio Program Commission 1953).

¹⁷ The study committee may also have served another important purpose; it may have served as a conference table at which diverse interests met and found areas of agreement and then forwarded these agreements on state policy to the legislature for action.

The matters of inquiry by the Commission were quite diverse. The recommendations range from matters requiring only administrative action to matters requiring constitutional amendment and from matters which are very specific and limited to matters which are of wide interest and impact.¹⁸

OHIO LEGISLATIVE SERVICE COMMISSION ACT

In this context the Ohio Legislative Service Commission was created and the Commission and Bureau of Code Revision, the Legislative Research Commission and the Ohio Program Commission abolished and their files and functions turned over to the newly created Commission.¹⁹ The bill was originally drafted to abolish the Legislative Reference Bureau also, but before the bill was enacted into law it was changed so as to preserve the Bureau.

The act makes it express that the Commission is a part of the legislative branch and provides that the Commission shall be composed of 14 members of the General Assembly.²⁰ This follows the organizational form of the Legislative Research Commission and is in contrast with the hybrid legislative-executive governing boards of the Legislative Reference Bureau, Bureau of Code Revision and Ohio Program Commission. If the Commission is to be a legislative agency, it seems logical that its governing board should be composed entirely of legislators and selected by the legislative branch. In this, the act follows the trend in recent legislative service agency acts in other states.

The Commission is composed of fourteen members—the President Pro-tempore of the Senate and six senators appointed by him and the Speaker of the House and six representatives appointed by him. The fact that the President Pro-tempore and not the Lieutenant Governor as President of the Senate is made a member of the Commission and given the power to appoint the senators to the Commission makes the Commission representative of and responsible to the legislative leadership. It must be remembered that the president pro-tempore is selected by the senate membership, and so is a leader of the senate majority, but that the

¹⁸ The recommendations to the 100th General Assembly, for example, include a recommendation that the position of engineer in charge of the field division of the Highway Department be removed from the Deputy-Director status and be placed in the classified service, that the constitution be amended to prescribe four year terms for the office of Governor, Lieutenant Governor, Attorney General, Secretary of State and State Treasurer, that sale of milk at retail in refrigerated dispensers be legalized, and that a Department of Revenue be established. BIENNIAL REPORT 1951-1952 61, 127, 29, 125 (Ohio Program Commission 1953).

¹⁹ Senate Bill No. 76, 100th General Assembly.

²⁰ OHIO GEN. CODE § 103.11.

President of the Senate is elected by the people at large and may not necessarily be a member of the majority party in the senate. These provisions of the act, therefore, seem desirable. The provision that no more than four of the six appointments made by each appointing officer may be from the same political party gives the commission a bi-partisan character. Although its membership will be bi-partisan, it will not necessarily be representative of the two parties. If it had been the intention to make the Commission the "interim legislature" wherein the majority and minority party meet between sessions to work out their differences on major policy questions, the act logically should have granted to the minority party leadership the right to appoint the two minority members from each house. The present provision certainly does not prevent the appointing officers from consulting the minority leadership concerning its preferences on the appointments of minority members. However, it does permit the appointing officer to follow the letter and disregard the spirit of the provision by appointing a weak or unrepresentative member of the minority party; this has occurred in other states having such a provision. On the other hand, it may be that the importance of party in state legislative issues may be overstated; the division on a question may be more frequently on other bases, such as rural versus city, than on the basis of party membership.²¹ To the extent that this is true, it may be more important that the appointing officers appoint legislators who are able, willing to give considerable time to this work, and representative of the different geographic, economic, and social groups in the state than that they give strict political party representation.

The Commission is authorized to establish the study committees having considerable non-commission membership which were employed so extensively by the Ohio Program Commission.²² At least one member of each study committee must be a member of the commission; this requirement should give the Commission some control over the study committee and also provide a liaison. It does mean that the Commission must accept responsibility for the conduct and work of the study committee, but this seems reasonable. As these study committees will be attached to an agency which will have a substantial research staff, they will probably be able to make even more valuable contributions to the Commission and thus to the General Assembly in policy guidance than did the study

²¹ For an illuminating recent study showing the relative unimportance of party affiliation to votes on substantive policy questions see Keefe, *Party Government and Lawmaking in Illinois General Assembly*, 47 *NORTHWESTERN U. L. REV.* 55 (1952).

²² OHIO GEN. CODE § 103.12.

committees of the Ohio Program Commission. It would seem to be an inefficient use of the valuable time of the able, expert and experienced persons appointed to study committees to expect them to collect, organize, and evaluate the basic facts; it would seem more reasonable to have a professional staff do this and use the study committee to develop recommendations for legislative action, which is the more sensitive and difficult task.

The Commission is granted adequate powers of investigation. Any member of the Commission may issue a subpoena and subpoena duces tecum, administer oaths and direct the taking of depositions of witnesses within and without the state. On application of the Commission, the county prosecutor must bring proceedings for contempt for disregarding a subpoena or improperly refusing to testify.²³

The Commission or a committee thereof when authorized by the Commission may hold public hearings.²⁴ The limitation on public hearings by committees is sound. The Commission is thus given the means of policing its committees so as to prevent them from bringing discredit on the Commission or using the public hearings for improper purposes.

The Commission is served by a staff headed by the director, who is the secretary of the Commission and also its chief administrative officer. It is noteworthy that all officers and employees of the commission serve at the pleasure of the commission.²⁵ This means that the staff will not be granted civil service tenure protections and that the director will not have full control over his staff. This has important implications concerning the character of the staff and its relationship to the Commission. While it is true that the staff's value judgments will have an impact upon the policy formulations of the legislators they serve no matter how great an effort the staff makes at objectivity and detachment from policy making,²⁶ it seems that the role of policy formulation should be assumed by the Commission and should not be usurped by the staff. If the staff is deep in policy formulation and justification, its research product is likely to be less a search for the facts than an arrangement and selection of facts to justify some policy position. The purist would argue it is the legislator-commission member who has been selected by the people for policy making and so he should perform this function and not the Commission's employees. Admitting that the question of participation of the staff in policy

²³ OHIO GEN. CODE § 103.17.

²⁴ OHIO GEN. CODE § 103.16.

²⁵ OHIO GEN. CODE § 103.19.

²⁶ For a very provocative analysis of the impact of staff services to the legislature on policy see Meller, 5 WESTERN POL. Q. 109 (1952).

formulation is probably only a question of degree, the writer's experience and conviction are that the staff should eschew participation in policy making. However, does not the provision of the Commission act making the tenure of the staff members subject to the pleasure of the Commission look toward making the staff politically responsive and responsible?

It has been asserted that the governing body of the legislative agency, such as the Commission, should engage the director and then give him full authority to hire and fire the rest of the staff.²⁷ This makes the director clearly responsible for the conduct of the staff; for it is argued that the director cannot reasonably be considered responsible for a staff which he has not selected and which he cannot discharge. Although the act does not speak to the question of who shall select the staff, it does give the Commission and not the director the power of discharge. This seems to run counter, in spirit at least, to the above argument. It is probable, though, that the Commission will defer to the director in the selection and discharge of the staff and hold him responsible. At least, that seems the route more likely to lead to the acquisition of a competent professional staff. In view of the close relationship of the staff to the sensitive area of policy formulation the provision placing the staff outside of the civil service seems reasonable. This discussion points up that one of the problems of the Commission in its initial years, perhaps a continuing problem, will be to define the role of the Commission and of the staff.

The merit of any political institution is measured by the services it performs. Hence, it is important to examine the functions assigned to the Legislative Service Commission.²⁸ The act is drafted, and properly so, to permit the Commission to develop over the years the precise nature of the services performed, taking into account the demands of the Assembly, needs, and resources. Therefore, it cannot be flatly said that the Commission will perform certain functions at a given level of performance. However, the kinds of services or functions can be indicated. The following table sets out the services which will be performed by the Commission and by the Legislative Reference Bureau and shows which agency, if any, previously provided that service.

²⁷ REVISED PRELIMINARY REPORT OF SPECIAL COMMITTEE ON ORGANIZATION OF LEGISLATIVE SERVICES TO LEGISLATIVE SERVICE CONFERENCE IV-20 (Council of State Governments, Sept. 1953).

²⁸ OHIO GEN. CODE § 103.13, 103.14, and 103.15 set out the duties of the Legislative Service Commission.

TABLE 1

AGENCY PROVIDING LEGISLATIVE SERVICES IN OHIO BEFORE AND AFTER PASSAGE OF OHIO LEGISLATIVE SERVICE COMMISSION ACT

<i>The Legislative Service^a</i>	<i>Agency Before Act</i>	<i>Agency After Act</i>
1. Indexing & summarizing legislative session developments	Leg. Ref. Bur.	Leg. Ref. Bur. & Leg. Serv. Comm.
2. Information & reference services	Leg. Ref. Bur.	Leg. Ref. Bur.
3. Orientation Conferences for Legislators		
4. Bill Drafting	Leg. Ref. Bur.	Leg. Ref. Bur. & Leg. Serv. Comm.
5. Legislative Counseling		
6. Statutory & Code Revision	Comm. & Bur. of Code Rev.	Leg. Serv. Comm.
7. Budgetary & Fiscal Review & Analysis	Leg. Research Comm.	Leg. Serv. Comm.
8. Post-Audit		
9. Assistance on Policy Problems	Leg. Research Comm. & Program Comm.	Leg. Serv. Comm.
10. Continuing Review of Governmental Problems	Program Comm.	Leg. Serv. Comm.
11. Substantive Law Revision		
12. Leg. Housekeeping Services		

a.) This classification of legislative services or functions is taken from REVISED PRELIMINARY REPORT OF SPECIAL COMMITTEE ON ORGANIZATION OF LEGISLATIVE SERVICES TO LEGISLATIVE SERVICE CONFERENCE Ch. III (Council of State Governments Sept. 1953).

It is apparent from the above table, which, while not presenting a completely accurate and detailed picture, is reasonably indicative, that the important change made by the act under discussion is not in directing the provision of new kinds of legislative services but in reorganizing the means by which they will be provided. In terms of the end product this is not an unimportant change.

As was suggested above, the major change made by the act under discussion is organizational; it consolidates three legislative agencies into one. The Commission and Bureau of Code Revision, Legislative Research Commission and Ohio Program Commission are merged into the Ohio Legislative Service Commission. This

means that legislative services will be performed in the future by two autonomous agencies, the Commission and the Ohio Legislative Reference Bureau, instead of by four as in the past. Senate Bill No. 76 as originally drafted also merged the Legislative Reference Bureau, but for reasons not known to the writer the Bureau was omitted from the agencies to be abolished by the Act. The section of the Commission Act setting forth the Commission's duties seems to charge the Commission with the responsibilities now discharged by the Bureau.²⁹ This apparent duplication of functions may not in fact develop. Although it is too early to know just how the agencies will divide responsibilities in the overlapping areas,³⁰ it is likely that the two agencies will work out a functional distribution of the overlapping duties.

The act creating the Ohio Legislative Service Commission is apparently the first successful effort by any state to consolidate legislative services previously provided by several independent agencies into one agency. The fact that some of the thinking in the legislative service field has been in terms of an agency to perform a specific function has probably contributed to the creation of additional agencies when new services were desired in a given state instead of assigning the job to an existing agency. Very probably in many states, the fact that the organization and personnel of the existing agency did not seem suitable to the performance of the desired additional service also contributed to the decision to create a new agency. Whatever the reasons, certainly the experience in Ohio has been typical. While a few states have assigned a wide range of legislative service responsibilities to a single agency,³¹ the usual approach has been to create the additional legislative agency. The result is that most states have two or more permanent legislative service agencies; California, Kansas and Texas each have four.³²

The talk in legislative services circles is that the next major trend in the field will be the consolidation of the service agencies. This conforms to popular organizational objectives: simplification, streamlining, and elimination of government bureaus. It is this organizational change in the provision of legislative services in

²⁹ OHIO REV. CODE § 103.13 (C), (E), (F) and (I) sets out the duties of the Commission which seem to correspond with those assigned to the Legislative Reference Bureau by OHIO GEN. CODE § 798-3.

³⁰ It has been suggested to the writer that the Legislative Reference Bureau will continue as the primary bill drafting agency. This is apparently a prediction and not a statement of established fact.

³¹ For example, North Dakota Legislative Research Committee, N.D. REV. CODE § 54-3502 (1943); Missouri Committee on Legislative Research, MO. REV. STAT. §§ 23.020, 23.030, 23.040, 23.050, 23.090 (1949).

³² 9 BOOK OF THE STATES 1952-1953 116-121 (1952).

Ohio that is of most interest to persons all around the country who are concerned with this field of government. Let us examine, then, the advantages which may be gained and lost by the consolidation and problems which may have been created and avoided thereby.³³

The consolidation resulting from this act should result in certain economies. There is a certain irreducible minimum of work involved in the housekeeping functions of any agency, such as preparing payrolls. Combining the agencies will reduce the total of this overhead. Combining the staffs will permit another economy. The nature of some legislative services such as bill drafting and providing information to legislators on specific problems is such that most of the work is done while the legislature is in session; the presence of the legislature in the capitol does not affect the daily work load in other service fields, such as code revision. Having the staffs combined means that staff can be more easily shifted to tasks which must be done immediately. This means that fewer additional persons will need to be hired to do the session-time tasks. As persons hired just for the session are likely to be less skilled and experienced than permanent personnel, it is likely that the service performed by the consolidated agency will be better.

The integration of staff resulting from this act will bring other benefits. Problems studied in making a fiscal analysis may also be encountered subsequently in answering a request for bill drafting service. If two agencies perform the two services it probably means that the problem must be briefed twice; however, if both tasks are done by the same agency, it is probable that the problems need not be re-briefed. As the Commission has a bigger mission than any of its predecessors, it will have a larger staff. The larger the staff the more likely it is that most of the different experts in state government problems can be acquired for the staff. Also, the larger staff will mean greater stability and continuity, as the departure of one staff man will be a lesser disruption to the larger staff.

The integration resulting from the Commission Act should also mean there may be more effective control over the factors which influence the legislature. As the fourteen-member Commission will perform or supervise the bulk of the legislative services, it can keep a better control over the work done. The fewer the number of interim legislative committees the more likely it is that their work will be responsive to the legislative leadership.

Consolidation of legislative service agencies is not done without some sacrifice. The fourteen legislators comprising the Legislative

³³ REVISED PRELIMINARY REPORT BY SPECIAL COMMITTEE ON ORGANIZATION OF LEGISLATIVE SERVICES TO LEGISLATIVE SERVICE CONFERENCE IV-8, IV-9 (Council of State Governments Sept. 1953) contains a summary of expected advantages and disadvantages of integration.

Service Commission will find that the formulation of institution policy, giving general direction to its study committees and staff and submitting policy recommendations to the General Assembly for an agency with the Commission's wide jurisdiction and responsibilities is a time consuming task. It may be a greater task than we can reasonably expect the part-time legislator to perform. Spreading the work among two to four agencies may be advantageous. Placing upon the part-time state legislator an unreasonably large amount of interim work may result in the work not getting done, it being done at too great a personal sacrifice on the part of the legislator, or the agency's decisions being made by the minority who can be present at most of the meetings. This is undesirable.

Another possible disadvantage in concentrating legislator participation in fourteen members of one agency means the educational value of participating in interim studies is available to a smaller number of legislators. Many legislators consider service on a legislative council-type agency an enriching experience. However, the use of a liberal number of legislators on the Commission's study committees may more than compensate for any loss of opportunity for legislator education in the operation and problems of his state government resulting from the consolidation.

Consolidation of the direction of the legislative service activity in the fourteen-member Commission may also increase the risk of the Commission being tagged the "little legislature" and the legislators not appointed becoming antagonistic to the Commission and its work. This did become a serious problem in at least one state. Having two or more permanent interim agencies does spread the service and honor around somewhat more and so reduce the risk. Again, the use of a large number of legislators on the study committees may minimize this risk.

When an agency is assigned a number of different tasks, it is likely that it does not do each at the same level of performance. The interest of the agency leadership and their judgment as to what is important will mean that certain functions are emphasized. Thus, it might happen that the director's principal interest was code revision and as a result the staff effort and Commission attention would be directed primarily towards that function. This would mean that other services would not be performed at all or only on a minimum basis. When several legislative agencies are each assigned their functional areas the kind of imbalance mentioned probably will not occur. The danger mentioned here can be avoided if the Commission keeps the problem in mind.

Consolidation means that all of the eggs are in one basket. Thus, if the legislators governing the agency or the director and top staff are not adequate for the task, proceed improperly or other-

wise fail to function properly, all of the legislative services suffer. However, if there were several legislative agencies, such a contingency would adversely affect only a segment of the legislative services.

It is probably true that the staff should and will participate in policy formulation to lesser degree in the performance of some legislative services than of others. The draftsman asked to produce a bill on a subject who is given ill-defined objectives and guide lines must make a considerable number of value judgments if he is to draft the bill; not necessarily so the researcher developing data on Ohio's road and highway problems, who can more easily leave policy formulation to the study committee or the Commission. Also, it may be that we want value judgments from the budget analyst but not from the revisor. However, if the same staff is to perform all the services it may be difficult to define the staff's role in different terms for the different work and then to adhere to that definition in practice. The tendency may be for the staff to assume the same relationship to policy making in all of its functions. This is undesirable.

It may be that the added expense and inefficiency of the several legislative agencies may be worth the cost in avoiding the special problems of the single multi-purpose legislative service agency. It is to be hoped, however, that these anticipated problems do not develop. The Ohio Legislative Commission Act represents an important step for Ohio. Its work will be watched with interest not only in Ohio but throughout the country.